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10/566,181

01/27/2006

Peter Jeffrey

06005

5562

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DENNISON, SCHULTZ & MACDONALD  
1727 KING STREET  
SUITE 105  
ALEXANDRIA, VA 22314

EXAMINER

CAMPBELL, VICTORIA P

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |   |                                       |  |
|------------------------------|---|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/566,181    | <b>Applicant(s)</b><br>JEFFREY, PETER |  |
|                              | <b>Examiner</b><br>VICTORIA P. CAMPBELL | <b>Art Unit</b><br>3763               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/18/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

This is the initial Office Action based on the 10/566181 application filed January 27, 2006. Claims 1-12 as amended in the preliminary amendment are currently pending and considered below.

#### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet **within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length** since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because line 4 refers to latching formations by the label "IS" which is not present in any of the drawings presented by applicant. Correction is required. See MPEP § 608.01(b).

#### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "mutually co-

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operating guide means” of claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-5 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,957,897 to Jeffrey.

Regarding the above claims, Jeffery discloses the following:

1. An actuator and containment device (Fig. 10) for a syringe of the type comprising at least a barrel (325, 372) and piston means (330) displaceable within the barrel to expel any contents of the barrel, usually via a hollow needle (320), said device comprising a hollow body (311A, 311B), a spring (323) and a plunger (345), in which respect the hollow body has internal latching formations (376) and is adapted to house the syringe barrel and piston means with any needle projecting outside the body (Fig. 10), the spring is disposed to act between the body and the syringe barrel (Figs. 10-12), which barrel, in initial use of the device, is retained against the force of the spring by means of the latching formations (Fig. 10), and the plunger is slidably located in the body to displace the piston means of the syringe, provides means (378) whereby the latching formations of the body can be disengaged from the syringe barrel enabling the spring to retract the entire syringe, including any needle, into the hollow body, and also provides a chamber for reception of at least a portion of the syringe after the spring has so acted (Fig. 12), characterised in that the plunger has deflectable edge members (347) whereby it can abut and displace the piston rod and the hollow body has internal deflector means (376) which serve to deflect the edge members of the plunger out of the path of retraction of the syringe barrel

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(the pressure to release the latching formations (376) flexes the barrel and permits release of the piston rod (332) into the plunger (345); Figs. 10-12).

**2.** A device according to claim 1 wherein the hollow body is generally of cylindrical form and has a longitudinal axis (Figs. 10-12) and also defines a main chamber (311B) in which the plunger is slidably located and a forward chamber which is of smaller cross-section than the main chamber and extends from the main chamber beyond the end of plunger movement to house the syringe barrel in initial use of the device (311A).

**3.** A device according to claim 2 wherein the latching formations of the body (376) are provided in the main chamber of the body adjacent to the forward chamber but lying radially outwardly with respect to the forward chamber (Fig. 10).

**4.** A device according to claim 1 wherein the latching formations extend generally parallel with the longitudinal axis of the hollow body to free ends which have radially inwardly directed catch means for retaining the syringe barrel against the force of the spring (376), the latching formations also being deflectable radially outwardly to enable capture of the syringe barrel by said catch means and its later release therefrom (Figs. 10-12).

**5.** A device according to claim 1 wherein the plunger and the latching formations have co-operating surface portions (376, 378) whereby the plunger can effect radially outward deflection of the latching formations to release the syringe barrel from the catch means (Figs. 10-12).

7. A device according to claim 1 wherein the hollow body is moulded in one piece and the latching formations are integrally moulded therewith (Col. 8, lines 40-45).
8. A device according to claim 1 wherein the latching formations are symmetrically arranged in the interior of the hollow body (Fig. 10).
9. A device according to claim 1 wherein the deflectable edge members are symmetrically arranged at the forward edge of the plunger (Fig. 10).
10. A device according to claim 1 consisting of only a hollow body (311A, 311B), a spring (323) and a plunger (345).
11. An assembly comprising a syringe and an actuator and containment device for said syringe as claimed in any preceding claim, said syringe comprising a barrel (325, 372), a hollow needle (320), and piston means (330) displaceable within the barrel to expel contents of the barrel via said needle, wherein the hollow body of the device houses the syringe barrel and piston means with the needle initially projecting outside the body and the spring is disposed inside the body and acts between the body of the device and the barrel of the syringe (Fig. 10).
12. An assembly comprising a syringe and an actuator and containment device for said syringe as claimed in claim 1, said syringe comprising at least a barrel (325, 372) and piston means (330) displaceable within the barrel to expel contents of the barrel, usually via a needle (320), wherein the hollow body of the device houses the syringe barrel and piston means and the spring is disposed

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inside the body and acts between the body of the device and the barrel of the syringe (Fig. 10).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jeffrey in view of USPGPub 2003/0065290 A1 to Shyu.

Regarding the above claim, Jeffrey teaches the device of claim 1 as described above, but fails to explicitly teach or disclose cooperating guide means in the hollow body and plunger. However, Shyu teaches a notch on the hollow barrel (1042) and a body piece on the plunger (22) which cooperate to restrict relative rotation between the body and the plunger. It would have been obvious to one having ordinary skill in the art at the time the invention was made to supplement the device of Jeffrey with the guiding



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mechanism of Shyu because doing so would maintain proper alignment of all syringe parts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA P. CAMPBELL whose telephone number is (571)270-5035. The examiner can normally be reached on Monday-Thursday, 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victoria P Campbell  
Examiner, AU 3763

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/Nicholas D Lucchesi/

Supervisory Patent Examiner, Art Unit 3763